

REMARKS

This is a full and timely response to the outstanding final Office Action mailed June 30, 2008 (Paper No. 20080619). Applicant respectfully requests entry of the amendments herein and reconsideration of all pending claims.

I. Rejection of Claims 109-111, 113-123, and 125-128 under 35 U.S.C. §102

Claims 109-111, 113-123, and 125-128 are rejected under §102(e) as allegedly anticipated by *Dougherty et al.* (U.S. 7,028,327). Claims 109-111, 113-123, and 125-128 are cancelled without prejudice, waiver, or disclaimer, and the rejection of these claims is therefore rendered moot. Applicant reserves the right to present the subject matter of these cancelled claims, or variants thereof, in continuing applications to be filed subsequently.

II. Rejection of Claims 1-14, 16-20, 58-63, 69-75, and 77-81 under 35 U.S.C. §103

Claims 1-14, 16-20, 58-63, 69-75, and 77-81 are rejected under §103(a) as allegedly obvious over *Payton* (U.S. 5,790,935) in view of *Norwood* (U.S. 5,983,316) and *Ueki* (U.S. 6,285,632) and *Dougherty et al.* (U.S. 7,028,327).

A. Claims 1-4

Applicant respectfully submits that the rejection of claim 2 is in error, since claim 2 was cancelled in the last response. Claims 1, 3, and 4 are cancelled without prejudice, waiver, or disclaimer, and the rejection of these claims is therefore rendered moot. Applicant reserves the right to present the subject matter of these cancelled claims, or variants thereof, in continuing applications to be filed subsequently.

B. Claims 5-14 and 16-20

Claims 5-14 and 16-18 are amended to depend from now-independent claim 39, and claims 19-20 depend from claim 18. Independent claim 39 was not rejected under the

combination of *Payton*, *Norwood*, *Ueki*, and *Dougherty et al.*, but is nonetheless allowable over this combination for at least the reason that the combination does not teach “the electronic programming guide information includes a list of media content instances for a standard amount of days, a list of media content instances for an extended amount of days”. *Payton*, *Norwood*, and *Ueki* do not discuss an electronic program guide (EPG) at all. *Dougherty* discusses an EPG, but does not disclose that the EPG includes a list for “a standard amount of days” or “an extended amount of days”. Therefore, the combination does not teach this claimed feature. Since now-independent claim 39 is allowable, claims 5-14 and 16-20 are allowable for at least the reason that each depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988).

C. Claims 58-63, 69-75, and 77-81

Applicant respectfully submits that the rejection of claim 59 is in error, since claim 59 was cancelled in the last response. Claims 58, 60-63, 69-75, and 77-81 are cancelled without prejudice, waiver, or disclaimer, and the rejection of these claims is therefore rendered moot. Applicant reserves the right to present the subject matter of these cancelled claims, or variants thereof, in continuing applications to be filed subsequently.

III. Rejection of Claims 1, 4, 15, 23-25, 50-51, 53-58, 66, 76, and 82-83 under 35 U.S.C. §103

Claims 1, 4, 15, 23-25, 50-51, 53-58, 66, 76, and 82-83 are rejected under §103(a) as allegedly obvious over *Dougherty et al.* (U.S. 7,028,327) in view of *Norwood* (U.S. 5,983,316) and *Ueki* (U.S. 6,285,632).

A. Claims 1 and 4

Claims 1 and 4 are cancelled without prejudice, waiver, or disclaimer, and the rejection of these claims is therefore rendered moot. Applicant reserves the right to present the subject

matter of these cancelled claims, or variants thereof, in continuing applications to be filed subsequently.

B. Claims 23-25, 50-51, 53-57

Claims 15, 23, 25, 50, and 51 are amended to depend from now-independent claim 39, and claims 53-57 depend (directly or indirectly) from claim 51. Independent claim 39 was not rejected under the combination of *Dougherty et al.*, *Norwood*, and *Ueki*, but is nonetheless allowable over this combination for at least the reason that the combination does not teach “the electronic programming guide information includes a list of media content instances for a standard amount of days, a list of media content instances for an extended amount of days”. *Norwood* and *Ueki* do not discuss an electronic program guide (EPG) at all. *Dougherty* discusses an EPG, but does not disclose that the EPG includes a list for “a standard amount of days” or “an extended amount of days”. Since now-independent claim 39 is allowable, claims 15, 23-25, 50-51, and 53-57 are allowable for at least the reason that each depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988).

C. Claims 66, 76, and 82-83

Claims 66, 76, and 82-83 are cancelled without prejudice, waiver, or disclaimer, and the rejection of these claims is therefore rendered moot. Applicant reserves the right to present the subject matter of these cancelled claims, or variants thereof, in continuing applications to be filed subsequently.

IV. Rejection of Claims 1, 4, 15, 23-30, 38, 48-49, 58, 67-68, 76, 82-92, 94, and 102-103 under 35 U.S.C. §103

Claims 1, 4, 15, 23-30, 38, 48-49, 58, 67-68, 76, 82-92, 94, and 102-103 are rejected under §103(a) as allegedly obvious over *Daniels* (6,973,669) in view of *Norwood* (5,983,316) and *Ueki* (6,285,632) and *Dougherty et al.* (7,028,327).

A. Claims 1 and 4

Claims 1 and 4 are cancelled without prejudice, waiver, or disclaimer, and the rejection of these claims is therefore rendered moot. Applicant reserves the right to present the subject matter of these cancelled claims, or variants thereof, in continuing applications to be filed subsequently.

B. Claims 15, 23-30, 38, and 48-49

Claim 15, 23, 25, 48, and 49 are amended to depend from now-independent claim 39, claim 24 depends from claim 23, and claims 26-30 depend from claim 25. Independent claim 39 was not rejected under the combination of *Daniels*, *Norwood*, *Ueki*, and *Dougherty et al.* but is nonetheless allowable over this combination for at least the reason that the combination does not teach “the electronic programming guide information includes a list of media content instances for a standard amount of days, a list of media content instances for an extended amount of days”. *Daniels*, *Norwood* and *Ueki* do not discuss an electronic program guide (EPG) at all. *Dougherty* discusses an EPG, but does not disclose that the EPG includes a list for “a standard amount of days” or “an extended amount of days”. Since now-independent claim 39 is allowable, claims 15, 23-30, 38, and 48-49 are allowable for at least the reason that each depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988).

C. Claims 58, 67-68, 76, 82-92, 94, and 102-103

Claims 58, 67-68, 76, 82-92, 94, and 102-103 are cancelled without prejudice, waiver, or disclaimer, and the rejection of these claims is therefore rendered moot. Applicant reserves the right to present the subject matter of these cancelled claims, or variants thereof, in continuing applications to be filed subsequently.

V. Rejection of Claims 1, 4, 36-37, 39-47, 58-59, 92-93, and 95-101 under 35 U.S.C. §103

Claims 1, 4, 36-37, 39-47, 58-59, 92-93, and 95-101 are rejected under §103(a) as allegedly obvious over *Schein* (U.S. 6,002,394) in view of *Norwood* (U.S. 5,983,316), *Ueki* (U.S. 6,285,632) and *Dougherty et al.* (U.S. 7,028,327).

A. Claims 1 and 4

Claims 1 and 4 are cancelled without prejudice, waiver, or disclaimer, and the rejection of these claims is therefore rendered moot. Applicant reserves the right to present the subject matter of these cancelled claims, or variants thereof, in continuing applications to be filed subsequently.

B. Dependent Claim 39

Dependent claim 39 is amended to independent form. Applicant respectfully submits that claim 39 is allowable for at least the reason that the proposed combination of *Schein* in view of *Norwood*, *Ueki*, and *Dougherty et al.* does not disclose, teach, or suggest at least the features discussed below.

1. The proposed combination does not teach “the electronic programming guide information includes a list of media content instances for a standard amount of days, a list of media content instances for an extended amount of days...”

The Office Action (p. 48) contends that this feature is disclosed by *Schein* at Col. 7, lines 16-45 and Col. 9, line 22 to Col. 10, line 28. Applicant respectfully disagrees. The first cited portion of *Schein* merely discloses the presence of an electronic program guide (EPG) which is created by received television schedule information, where the schedule information includes “a show schedule for a given channel, the title of each show in the schedule, descriptions and information attributes about each show in the channel” (Col. 7, lines 25-30). No mention is made that the EPG includes a list for “a standard amount of days” or “an extended amount of days”.

The second cited portion of *Schein* discloses a “show list”, which is described as follows:

The next data structure in the hierarchy is the show list depicted in FIG. 6. The show list includes a start time typically being midnight GMT and 24 hours of scheduling. The channel's schedule is given by an ordered sequence of show slots, with a show slot for each show to be broadcast by a particular channel for a particular day. Each slot includes a duration, show title handle, and show description handle. Finding an entry corresponding to a given start time requires the entries to be scanned, in order, from the beginning of show list and adding duration values.

The database, when fully constructed, holds a weeks worth of show lists for each channel. The days of the week are accessed by incrementing the show list handle by two bytes. The show lists are updated each day at midnight GMT with the show list for the day just completed being deleted and the show list for same day next week being added to the database.

(*Schein*, Col. 9, lines 45-61).

Applicant notes that this passage describes show list for a **single duration** (“a weeks worth of show lists for each channel”), while claim 39 specifically refers to **two different durations** (“a standard amount of days” and “an extended amount of days”). Thus, Applicant respectfully submits that the portion of *Schein* relied on in the Office Action does not disclose, teach, or suggest this feature. If this rejection is maintained in a future Office Action, the Examiner is respectfully requested to point out with particularity which feature in *Schein* allegedly discloses the above-described features recited in claim 39.

This deficiency is not cured by the other references in the combination. *Norwood* and *Ueki* do not discuss an electronic program guide (EPG) at all. *Dougherty* discusses an EPG, but does not disclose that the EPG includes a list for “a standard amount of days” or “an extended amount of days”.

2. The proposed combination does not teach “a dual mode file system providing a common interface to both a local storage device and a remotely located storage device”

Claim 39 is amended to recite “a dual mode file system providing a common interface to both a local storage device and a remotely located storage device”. *Schein* discloses a computer program containing software for “receiving, organizing and displaying data for the

television schedule guide” (Col. 5, lines 38-40). *Schein* also discloses that the software “is stored within computer 12 on hard drive 14 or on another mass storage location” or “can also be provided access, download, and/or automatically upgrade, for example, via downloading from a satellite 24, transmission through the internet or other on-line service, or transmission through another type of land line 22 (e.g., coax cable, telephone line, optical fiber, or wireless technology”. Applicant first notes that *Schein* describes alternative storage schemes: local or remote storage. In contrast, claim 39 recites “a dual mode file system...**to both a local storage device and a remotely located storage device**”. Furthermore, even assuming (for the sake of argument) that a person of ordinary skill in the art would understand *Schein* to disclose using both local and remote storage for software, *Schein* does not disclose, teach, or suggest doing so in the specific manner recited in claim 39, namely “**a dual mode file system providing a common interface** to both a local storage device and a remotely located storage device”.

In addition to software storage, *Schein* also discusses storage of schedule and program information, as follows:

In addition to the computer program, data for the basic schedule information and other related data (e.g., data relating to a particular show) are needed for the generation and maintenance of the television schedule and/or listing information guide. These data are received, in the preferred embodiment, via line 22; they can also be provided via a satellite broadcast from satellite 24 or wireless technology (e.g., Richochet.TM.). Additionally, the television schedule and/or listing information and related data can be sent directly to television 32 via satellite 24 or wireless technology (e.g., Richochet.TM.). In this arrangement, the television schedule information and related data does not have to be transmitted from computer system 10 to television system 30.

In one embodiment, line 22 is a telephone line which provides access to the internet or other on-line service via, for example, a regular modem or direct modem access to a schedule provider. The schedule data are then provided to the viewer from a remote database via the internet or other on-line service, or directly from the service provider. As stated above, line 22 can also be, for example, coax cable, optical fiber or any other land line which can provide data to computer 12. **The software program saved on hard drive 14 then utilizes the data received on line 22 to generate a television schedule guide. The user can retrieve this generated television schedule guide when desired.** (*Schein*, Col. 5, lines 50-65.)

This embodiment retrieves data from a remote location then generates a schedule guide from that retrieved data. In contrast, claim 39 recites “a dual mode file system...**to both a local storage device and a remotely located storage device**”. Furthermore, even assuming (for the sake of argument) that a person of ordinary skill in the art would understand *Schein* to disclose using both local and remote storage for television program guide information, *Schein* does not disclose, teach, or suggest doing so in the specific manner recited in claim 39, namely “**a dual mode file system providing a common interface** to both a local storage device and a remotely located storage device”. This deficiency is not cured by the other references in the combination, since none of them discuss “dual mode file systems”.

3. Conclusion

Since the proposed combination of *Schein* in view of *Norwood*, *Ueki*, and *Doughety et al.* does not teach at least the above-described features recited in claim 39, a *prima facie* case establishing an obviousness rejection has not been made. Therefore, the rejection should be withdrawn.

C. Claims 36-37 and 40-47

Claim 36 is amended to depend from now-independent claim 39 and claim 37 depends from claim 36. Claims 40-47 depend from now-independent claim 39. Since now-independent claim 39 is allowable for at least the reasons discussed above, claims 36-37 and 40-47 are allowable for at least the reason that each depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988).

D. Claims 58-59 and 92-93

Applicant respectfully submits that the rejection of claim 59 is in error, since claim 59 was cancelled in the last response. Claims 58 and 92-93 are cancelled without prejudice, waiver, or disclaimer, and the rejection of these claims is therefore rendered moot. Applicant

reserves the right to present the subject matter of these cancelled claims, or variants thereof, in continuing applications to be filed subsequently.

E. Claim 95

Dependent claim 95 is amended to independent form. Applicant respectfully submits that claim 95 is allowable for at least the reason that the proposed combination of *Schein* in view of *Norwood*, *Ueki*, and *Doughety et al.* does not disclose, teach, or suggest at least the features discussed below.

1. The proposed combination does not teach “the electronic programming guide information includes a list of media content instances for a standard amount of days, a list of media content instances for an extended amount of days...”

The Office Action (p. 48) contends that this feature is disclosed by *Schein* at Col. 7, lines 16-45 and Col. 9, line 22 to Col. 10, line 28. Applicant respectfully disagrees. The first cited portion of *Schein* merely discloses the presence of an electronic program guide (EPG) which is created by received television schedule information, where the schedule information includes “a show schedule for a given channel, the title of each show in the schedule, descriptions and information attributes about each show in the channel” (Col. 7, lines 25-30). No mention is made that the EPG includes a list for “a standard amount of days” or “an extended amount of days”.

The second cited portion of *Schein* discloses a “show list”, which is described as follows:

The next data structure in the hierarchy is the show list depicted in FIG. 6. The show list includes a start time typically being midnight GMT and 24 hours of scheduling. The channel's schedule is given by an ordered sequence of show slots, with a show slot for each show to be broadcast by a particular channel for a particular day. Each slot includes a duration, show title handle, and show description handle. Finding an entry corresponding to a given start time requires the entries to be scanned, in order, from the beginning of show list and adding duration values.

The database, when fully constructed, holds a weeks worth of show lists for each channel. The days of the week are accessed by incrementing the show list handle by two bytes. The show lists are updated each day at midnight GMT with the show list for the day just completed being deleted and the show list for same day next week being added to the database.

(*Schein*, Col. 9, lines 45-61).

Applicant notes that this passage describes show list for a **single duration** (“a weeks worth of show lists for each channel”), while claim 95 specifically refers to **two different durations** (“a standard amount of days” and “an extended amount of days”). Thus, Applicant respectfully submits that the portion of *Schein* relied on in the Office Action does not disclose, teach, or suggest this feature. If this rejection is maintained in a future Office Action, the Examiner is respectfully requested to point out with particularity which feature in *Schein* allegedly discloses the above-described features recited in claim 95.

This deficiency is not cured by the other references in the combination. *Norwood* and *Ueki* do not discuss an electronic program guide (EPG) at all. *Dougherty* discusses an EPG, but does not disclose that the EPG includes a list for “a standard amount of days” or “an extended amount of days”.

2. The proposed combination does not teach “retrieving electronic programming guide (EPG) information from a remotely located storage device, through a dual mode file system that provides a common interface to both the remotely located storage device and the local storage device”

Claim 95 is amended to recite “a dual mode file system that provides a common interface to both the remotely located storage device and the local storage device”. *Schein* discloses a computer program containing software for “receiving, organizing and displaying data for the television schedule guide” (Col. 5, lines 38-40). *Schein* also discloses that the software “is stored within computer 12 on hard drive 14 or on another mass storage location” or “can also be provided access, download, and/or automatically upgrade, for example, via downloading from a satellite 24, transmission through the internet or other on-line service, or transmission through another type of land line 22 (e.g., coax cable, telephone line, optical fiber, or wireless technology”. Applicant first notes that *Schein* describes alternative storage schemes: local or remote storage. In contrast, claim 95 recites “a dual mode file system...**to both the remotely located storage device and the local storage device**”. Furthermore, even assuming (for the sake of argument) that a person of ordinary skill in the art would understand *Schein* to disclose

using both local and remote storage for software, *Schein* does not disclose, teach, or suggest doing so in the specific manner recited in claim 95, namely “**a dual mode file system that provides a common interface** to both the remotely located storage device and the local located storage device”.

In addition to software storage, *Schein* also discusses storage of schedule and program information, as follows:

In addition to the computer program, data for the basic schedule information and other related data (e.g., data relating to a particular show) are needed for the generation and maintenance of the television schedule and/or listing information guide. These data are received, in the preferred embodiment, via line 22; they can also be provided via a satellite broadcast from satellite 24 or wireless technology (e.g., Richochet.TM.). Additionally, the television schedule and/or listing information and related data can be sent directly to television 32 via satellite 24 or wireless technology (e.g., Richochet.TM.). In this arrangement, the television schedule information and related data does not have to be transmitted from computer system 10 to television system 30.

In one embodiment, line 22 is a telephone line which provides access to the internet or other on-line service via, for example, a regular modem or direct modem access to a schedule provider. The schedule data are then provided to the viewer from a remote database via the internet or other on-line service, or directly from the service provider. As stated above, line 22 can also be, for example, coax cable, optical fiber or any other land line which can provide data to computer 12. **The software program saved on hard drive 14 then utilizes the data received on line 22 to generate a television schedule guide. The user can retrieve this generated television schedule guide when desired.** (Schein, Col. 5, lines 50-65.)

This embodiment retrieves data from a remote location then generates a schedule guide from that retrieved data. In contrast, claim 95 recites “a dual mode file system...**to both the remotely located storage device and the local storage device**”. Furthermore, even assuming (for the sake of argument) that a person of ordinary skill in the art would understand *Schein* to disclose using both local and remote storage for television program guide information, *Schein* does not disclose, teach, or suggest doing so in the specific manner recited in claim 95, namely “**a dual mode file system that provides a common interface** to both the remotely located storage

device and the local located storage device”. This deficiency is not cured by the other references in the combination, since none of them discuss “dual mode file systems”.

3. Conclusion

Since the proposed combination of *Schein* in view of *Norwood*, *Ueki*, and *Doughety et al.* does not teach at least the above-described features recited in claim 95, a *prima facie* case establishing an obviousness rejection has not been made. Therefore, the rejection should be withdrawn.

F. Claims 96-101

Claims 96-101 depend from now-independent claim 95, which is allowable for at least the reasons discussed above. Therefore, claims 96-101 are allowable for at least the reason that each depends from an allowable claim. In re Fine, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988).

VI. Newly Added Claims

Applicant submits that new claim 129 is allowable for at least the reason that the cited references do not teach, disclose, or suggest the feature of “logic configured to retrieve electronic programming guide (EPG) information from a remotely located storage device, through a dual mode file system that provides a common interface to both the remotely located storage device and the local storage device.” Applicant submits that new claim 130 is allowable for at least the reason that the cited references do not teach, disclose, or suggest the feature of “responsive to determining that the local storage device is coupled to the DHCT, retrieving, from the remotely located virtual file system, first and second electronic programming guide (EPG) information and storing the first EPG information in a memory residing in the DHCT and the second EPG information in the local storage device; the second EPG information including a list of media content instances for an extended number of days”. Therefore, Applicant requests the Examiner to enter and allow the above new claims.

CONCLUSION

Applicant respectfully requests that all outstanding objections and rejections be withdrawn and that this application and presently pending claims 5-20, 23-30, 32-51, 53-57, 95-101, and 129-130 be allowed to issue. Any statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known since the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions. If the Examiner has any questions or comments regarding Applicant's response, the Examiner is encouraged to telephone Applicant's undersigned counsel.

Respectfully submitted,

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